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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/749,091

12/31/2003

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EXAMINER

IWARERE, OLUSEYE

ART UNIT

PAPER NUMBER

4127

MAIL DATE

DELIVERY MODE

11/15/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/749,091	ARGHAVANIFARD ET AL.	
	Examiner	Art Unit	
	Oluseye Iwarere	4127	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/31/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/31/2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is a first Office Action Non-Final rejection on the merits. Claims 1 – 19, as originally filed, are currently pending and have been considered below.

Information Disclosure Statement

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.

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- (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).
- (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.
- (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
 - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
 - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.

- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

3. The disclosure is objected to because of the following informalities: The examiner requests that the applicant remove the address and phone numbers from the drawing figures.

Appropriate correction is required.

Claim Objections

4. Claims 2-19 are objected to because of the following informalities:

In claims 2-19, the examiner suggests that the applicant removes the recitation "The said" and replace it with "The". Appropriate correction is required.

Claims 7, 9, 11, 12, 16 and 19 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. In this case claims 7, 9, 11, 12, 16 and 19 cannot refer to claims that they do not depend from.

A series of singular dependent claims is permissible in which a dependent claim refers to a preceding claim which, in turn, refers to another preceding claim.

A claim which depends from a dependent claim should not be separated by any claim which does not also depend from said dependent claim. It should be kept in mind that a dependent claim may refer to any preceding independent claim. In general, applicant's sequence will not be changed. See MPEP § 608.01(n). Thus, claims 16 and 19 should be written in a single sentence.

5. Claim 19 objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claim 19 has not been further treated on the merits.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 2 - 19 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

In claim 2, the recitation “can be” renders the claim indefinite since it is unclear if the rest of the cited elements are part of the claimed limitation.

In claim 7, the recitation “claim 3 via the database” renders the claim indefinite because it is unclear if applicant is referring to the “Database” of parent claim 1 or claim 3.

In claim 9, the recitation “break-time hours” renders the claim indefinite because it is unclear if applicant is referring to “break-time” in claim 1 or claim 7.

In claim 11, the recitation “calculated net pay” renders the claim indefinite because it is unclear if applicant is referring to an element in claim 1 or “net pay” claim 9 or 10.

In claim 12, the recitation “calculated net pay” renders the claim indefinite because it is unclear if applicant is referring to an element in claim 1 or “net pay” claim 9 or 10.

In claim 16, the recitation “Time-in, Time-out and Break hours” renders the claim indefinite because it is unclear if applicant is referring to “Time-in, Time-out and Break hours” in claim 1 or claim 3.

In Claim 19, the reference to claims 2 through claim 18 in lines 2 and 3 are improperly dependent.

8. Claim 4 provides for the use of an internal Date/Clock system, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claim 4 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claim Rejections - 35 USC § 101

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

10. Claims 1 – 19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As per claims 1 – 19, the system contains software (data) structures not claimed as embodied in computer-readable media and therefore are descriptive material *per se* and are not statutory because they are not capable of causing function change in a computer. See *In re Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. As best understood, claims 1, 3, 4, 7 – 9, 11 – 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Swart (6,347,306).

As per claim 1, Swart discloses, a multi user Software which, is able to record "Time-In", "Time-Out" and "Break-Time" hours for employees directly into a Database by using only a computer not any other hardware (col. 4, lines 46 – 48; via time and attendance information is acquired in real-time by the employee data computer system from each employee, including shift completion information indicative of the completion of at least one work segment).

As per claim 3, Swart discloses, enables any employees to use the computer and record their "Time-In", "Time-Out" and "Break-Time" hours by just entering their

employee ID in the computer and clicking on the mouse (col. 7, lines 24 – 27; via such information could be entered when the employee punches out at the end of the shift such that the work segment comprises the time worked from punch-in to punch-out).

As per claim 4, Swart discloses, uses the internal Date/Clock system of the computer for recording the "Time-In", "Time-Out" and "Break-Time" hours (col. 6, lines 64 – 67; via the computer network (such as via the Internet) as soon as it is accumulated, in real time, rather than being provided at the end of the month or year from third parties).

As per claim 7, Swart discloses, is able to calculate and print the regular-working hours, over-time hours and break-time hours for any payroll period from the recorded hours in the claim 3 via the Database (col. 3, lines 39 – 41; via the payroll software object is operative to calculate, using the net pay calculation logic, net work segment pay for each work segment completed by the employee).

As per claim 8, Swart discloses, is able to record and deduct days-off and make payroll amount ready by calculating days off with pay or days off without pay (col. 3, lines 57 – 60; via a third party deduction calculation software object comprising deduction logic operative to calculate additional deductions, to be included with the pay deduction information, in proportion to the gross work segment pay).

As per claim 9, Swart discloses, able to calculate the Gross payroll, Tax, Deductions and Net pay from calculated regular-working hours, over-time hours and break-time hours in the claim 7 (col. 3, lines 62 – 64; via the deduction logic is operative

to calculate tax deductions from the gross work segment pay in amounts corresponding to the duration of the completed work segment).

As per claim 11, Swart discloses, is able to print and issue a pay-check from calculated Net pay in the claim 9 and 10 (col. 2, lines 1 – 2; via the final net pay information is sent by submitting electronic data to the bank which either provides a check to the employee or directly deposits the payment amount into the employee's account through direct deposit banking).

As per claim 12, Swart discloses, is able to print and issue a pay-check Stub from calculated Net pay in the claim 9 and 10 (col. 2, lines 3 – 5; via the payroll service also usually provides the employee with limited payroll information printed on a stub attached to the check or on a separate report).

As per claim 13, Swart discloses, is able to calculate total of all payroll Taxes for monthly tax deposits (col. 1, lines 54 – 56; via software package can be used to calculate gross hours and dollars for each employee. This is typically done for a one-week or two-week period) (col. 1, lines 59 – 62; via the payroll system uses its own proprietary software to calculate net pay for each employee by taking gross pay and subtracting deductions such as taxes (federal, social security, Medicare, state) and any other needed adjustments).

As per claim 14, Swart discloses, is able to calculate total of all payroll Taxes for quarterly tax payments. (col. 1, lines 53 – 55; via software package can be used to calculate gross hours and dollars for each employee. This is typically done for a one-week or two-week period) (col. 1, lines 59 – 61; via the payroll system uses its own

proprietary software to calculate net pay for each employee by taking gross pay and subtracting deductions such as taxes (federal, social security, Medicare, state) and any other needed adjustments)

As per claim 15, Swart discloses, is able to calculate total of all payroll Taxes for annually tax payments. (col. 1, lines 54 – 56; software package can be used to calculate gross hours and dollars for each employee. This is typically done for a one-week or two-week period) (col. 1, lines 59 – 61; The payroll system uses its own proprietary software to calculate net pay for each employee by taking gross pay and subtracting deductions such as taxes (federal, social security, Medicare, state) and any other needed adjustments)

As per claim 16, Swart discloses, has two different accesses into the said Database. One by Supervisor and one by the employees. The Supervisor has access to all parts of the said Software, but employees have access to the only one part of the said Software which includes only "Time-In", "Time-Out" and "Break" hours in the claim 3 (col. 5, lines 66 – 67; via shift completion information can also include the event of authorization by which a supervisor or the like must authorize the shift. The supervisor would have to enter the system through their own path to accomplish these necessary duties that the employees are not able to).

As per claim 17, Swart discloses, enables the Supervisor to add, update and delete the information of the said employees in the said Database (col. 1, lines 27 – 30; via human resources (HR) computer system 220 contains employee information needed for the net pay calculation. Typically, once an employee starts a new job or project, the

human resources department creates an employee profile, which comprises information about the employee).

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 2, 5, 6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swart (6,347,306) in view of Costello (2005/0,021,428).

As per claim 2, Swart discloses all the elements of the claimed invention but fail to explicitly disclose, can be installed on a Personal computer, work-station computer or on a Central-computer with networking capability.

Costello teaches, a time management system for mobile employees, which can be installed on a Personal computer, work-station computer or on a Central-computer with networking capability ([abstract]; via mobile employees, in communication with the system Web server via a cell phone or PDA, enter time transaction data using the mobile computing device's Web browser).

From this teaching of Costello, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system for direct payroll processing of Swart to include the mobile communication taught by Costello in order to allow the process mobility.

As per claim 5, Swart discloses all the elements of the claimed invention but fail to explicitly disclose, displays employee's name after entering employee ID.

Costello, teaches a time management system for mobile employees, with the concept of displaying employee's name after entering employee ID ([0018]; via accessing the Web site, the employee enters a screen name and password).

From this teaching of Costello, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system for direct payroll processing of Swart to include password and identification input taught by Costello in order to gain access to the secure system.

As per claim 6, Swart discloses all the elements of the claimed invention but fail to explicitly disclose, rejects an error if an employee enters a wrong employee ID.

Costello, teaches a time management system for mobile employees, with the concept of rejecting an error if an employee enters a wrong employee ID ([0046]; via a username and password validation process 204 enabled by employee profile information stored on a database).

From this teaching of Costello, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system for direct payroll processing of Swart to include the mobile communication taught by Costello in order to ensure authentication of the employee.

As per claim 18, Swart discloses all the elements of the claimed invention but fail to explicitly disclose, enables the Supervisor to add, update and delete the "Time-In", "Time-Out" and "Break-Time" hours of the employees in the Database.

Costello, teaches a time management system for mobile employees, with the concept of enabling the Supervisor to add, update and delete the "Time-In", "Time-Out" and "Break-Time" hours of the employees in the Database ([0019]; via the time transaction data has been stored on the server, authorized personnel can access the secure Web site, and generate a time transaction query based upon user-selected parameters for the employee, date, client, and service performed).

From this teaching of Costello, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system for direct payroll processing of Swart to include time transaction data taught by Costello in order to track and organize time.

15. Claim 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Swart (6,347,306) in view of Kelly (2004/0,088,234).

As per claim 10, Swart discloses all the elements of the claimed invention but fail to explicitly disclose, is able to in case of employees on salary only, calculate payroll and taxes by input the base salary and any other income or commission data.

Kelly teaches a modular payroll system, having the ability to in case of employees on salary only, calculate payroll and taxes by input the base salary and any other income or commission data ([0046]; via completes a project at an effective rate that would yield a higher per-hour salary for a particular project, based on the unit rate for that project. If a full deduction of the debit account amount would lower the employee's earnings for that pay period below his minimum employee compensation

amount, the full deduction will not be made and only a portion of that amount will be subtracted from his pay-check, so that the employee still receives his minimum employee compensation amount, and will continue to have a balance in his debit account amount).

From this teaching of Kelly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system for direct payroll processing of Swart to include the salary adjustment taught by Kelly in order to insure accurate compensation.

16. An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site <http://www.uspto.gov> in the Site Index under "Attorney and Agent Roster." Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Perler et al. (2002/0,030,584), which discloses a biometric access control system with time and attendance data logging and reporting capabilities, Treibach-Heck et al. (2003/0,083,966), which multi-party reporting system and method, Crawshaw, Geoffrey K. et al. (2001/0,042,032), which discloses a System for capturing, processing, tracking and reporting time and expense data, Gates et al. (6,411,938), which discloses, a client-server online payroll processing, and Bode (2006/0,122,878), which discloses a payroll management method and apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Oluseye Iwarere whose telephone number is (571) 270-5112. The examiner can normally be reached on Monday to Thursday 7:30am to 5 (EDT).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynda Jasmin can be reached on (571) 272-3033. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OI

/Lynda Jasmin/

Supervisory Patent Examiner, Art Unit 4127